



General Assembly

February Session, 2010

***Raised Bill No. 447***

LCO No. 2185

\*02185\_\_\_\_\_JUD\*

Referred to Committee on Judiciary

Introduced by:  
(JUD)

***AN ACT CONCERNING THE APPOINTMENT OF A GUARDIAN AD LITEM FOR AN ADULT WHO IS SUBJECT TO A CONSERVATORSHIP OR A CONSERVATORSHIP PROCEEDING.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 45a-132 of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective October 1, 2010*):

3 (a) [In] (1) Except as provided in subdivision (2) of this subsection,  
4 in any proceeding before a court of probate or the Superior Court  
5 including the Family Support Magistrate Division, whether acting  
6 upon an appeal from probate or otherwise, the judge or magistrate  
7 may appoint a guardian ad litem for any minor or incompetent,  
8 undetermined or unborn person, or may appoint one guardian ad  
9 litem for two or more of such minors or incompetent, undetermined or  
10 unborn persons, if it appears to the judge or magistrate that one or  
11 more persons as individuals, or as members of a designated class or  
12 otherwise, have or may have an interest in the proceedings, and that  
13 one or more of them are minors, incompetent persons or persons  
14 undetermined or unborn at the time of the proceeding.

15 (2) No judge or magistrate may appoint a guardian ad litem for any

16 person eighteen years of age or older who is represented by an  
17 attorney and who is a respondent, or is under a conservatorship and  
18 has a conservator of the estate or a conservator of the person appointed  
19 on such person's behalf, unless the person's attorney is unable to  
20 ascertain the preferences of the person, including preferences  
21 previously expressed by the person. Prior to appointing a guardian ad  
22 litem under this subdivision, the judge or magistrate shall question the  
23 person for the sole purpose of determining the person's preferences or  
24 inability to express such preferences. If the judge or magistrate  
25 appoints a guardian ad litem under this subdivision, the judge's or  
26 magistrate's order shall limit the appointment in scope and duration  
27 and shall grant the guardian ad litem only the specific duty to  
28 ascertain whether the attorney's or conservator's proposed course of  
29 action is the least restrictive means of intervention available to assist  
30 the person in managing his or her affairs or caring for himself or  
31 herself. Any appointment of a guardian ad litem under this  
32 subdivision shall terminate upon the filing of the guardian ad litem's  
33 report with the judge or magistrate, or earlier upon the order of the  
34 judge or magistrate.

35 (3) For the purposes of subdivision (2) of this subsection,  
36 "conservator of the estate", "conservator of the person", "least  
37 restrictive means of intervention" and "respondent" have the meanings  
38 set forth in section 45a-644.

39 (b) The appointment shall not be mandatory, but shall be within the  
40 discretion of the judge or magistrate.

41 (c) Any order or decree passed or action taken in any such  
42 proceeding shall affect all the minors, incompetent persons or persons  
43 thereafter born or determined for whom the guardian ad litem has  
44 been appointed, in the same manner as if they had been of the age of  
45 majority and competent and present in court after legal notice at the  
46 time of the action or the issuance of the order or decree.

47 (d) Any appointment of a guardian ad litem may be made with or

48 without notice and, if it appears to the judge or magistrate that it is for  
49 the best interests of a minor having a parent or guardian to have as  
50 guardian ad litem some person other than the parent or guardian, the  
51 judge or magistrate may appoint a disinterested person to be the  
52 guardian ad litem.

53 (e) When the appointment is made in connection with the settlement  
54 of a decedent's estate or the settlement of the account of a trustee or  
55 other fiduciary, the person so appointed shall be authorized to  
56 represent the minor or incompetent, undetermined or unborn person  
57 in all proceedings for the settlement of the estate or account and  
58 subsequent accounts of the trustee or other fiduciary, or until his  
59 appointment is terminated by death, resignation or removal.

60 (f) The guardian ad litem may be removed by the judge or  
61 magistrate which appointed [him] the guardian ad litem, without  
62 notice, whenever it appears to the judge or magistrate to be in the best  
63 interests of the ward or wards of the guardian.

64 (g) Any guardian ad litem appointed under the provisions of this  
65 section may be allowed reasonable compensation by the judge or  
66 magistrate appointing [him] the guardian ad litem and shall be paid as  
67 a part of the expenses of administration.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2010	45a-132

**Statement of Purpose:**

To provide that a person who is subject to a proceeding to appoint a conservator or who has been appointed a conservator shall not be appointed a guardian ad litem in a probate, family or other proceeding, except for the limited purpose of determining the person's preferences.

*[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]*